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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/522,025	07/22/2005	Shiro Kinpara	AKY-0021	1948
23353 7590 09/25/2007 RADER FISHMAN & GRAUER PLLC LION BUILDING 1233 20TH STREET N.W., SUITE 501 WASHINGTON, DC 20036			EXAMINER MOHANDESI, IRAJ A	
			ART UNIT 2834	PAPER NUMBER
			MAIL DATE 09/25/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	Application No. 10/522,025	Applicant(s) KINPARA ET AL.	
	Examiner Iraj A. Mohandesi	Art Unit 2834	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 17 July 2007.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) 11 and 12 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,3,6 and 8-10 is/are rejected.
- 7) ☐ Claim(s) 2,4,5 and 7 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date <u>01/21/2005</u> . | 6) <input type="checkbox"/> Other: _____  |

**DETAILED ACTION**

***Information Disclosure Statement***

1. The information disclosure statement (IDS) submitted on 01/21/2005.
2. The submission is in compliance with the provisions of 37 CFR 1.97.

Accordingly, the information disclosure statement is being considered by the examiner.

***Response to restriction requirement***

1. Applicants' election with traverse of Invention I, Claims 1-10, filed 07/17/2007 is acknowledged. This is not found persuasive because Restriction to one of the following inventions is required under 35 U.S.C. 121:

I. Claims 1-10, drawn to a wind power generator with controller, classified in class 290, subclass 55. The inventions are distinct, each from the other because of the following reasons:

II. Claims 11 and 12, drawn to process of making a structure, classified in class 52, subclass 123.

2. Inventions I and II are related as process of making and product made. The inventions are distinct if either or both of the following can be shown: (1) that the process as claimed can be used to make another and materially different product or (2) that the product as claimed can be made by another and materially different process (MPEP § 806.05(f)). In the instant case the process of construct a structure using a climbing cane for connecting stage members can be used to build many different structure such as building or water reservoir tower and a wind power generator can be pre-constructed in factory and transported to locations.

3. Because these inventions are independent or distinct for the reasons given above and there would be a serious burden on the examiner if restriction is not required because the inventions have acquired a separate status in the art in view of their different classification, restriction for examination purposes as indicated is proper.

Because these inventions are independent or distinct for the reasons given above and there would be a serious burden on the examiner if restriction is not required because the inventions require a different field of search (see MPEP § 808.02),

3. Therefore the requirement is still deemed proper and is made FINAL.

4. Claims 1-12 are pending in this application, claims 11 and 12 are withdrawn from further consideration because these Claims are drawn to non-elected inventions.

***Claim Rejections - 35 USC § 102***

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 1,3,6 and 8 -10 are rejected under 35 U.S.C. 102(b) as being anticipated by Richardson US patent 5,083,039.

Regarding claims 1 and 10, Richardson US patent 5,083,039 discloses a variable speed wind turbine a wind power generator, comprising: a flame, an impeller ( 12) supported rotatably by the flame, plural generators ( 16,18) driven to rotate by the impeller (12), transmission wires (38) leading from generators (16,18), and a controller (B,54)

selecting some transmission wires to connect or disconnect them.

5. Regarding claims 3, Richardson US patent 5,083,039 discloses a variable speed wind turbine a wind power generator, wherein the impeller rotates around a vertically extending axis and the main gear is fixed to the impeller (see 14).

6. Regarding claims 6, Richardson US patent 5,083,039 discloses a variable speed wind turbine a wind power generator, wherein wheels or sub gears support the weight of the impeller.

7. Regarding claims 8 and 9, Richardson US patent 5,083,039 discloses a variable speed wind turbine a wind power generator,, wherein the controller has a means to detect a wind speed or a rotation speed and a means to decrease the number of the generators operating when the rotation speed decreases (40,44) and ,wherein the impeller rotates around a vertically extending axis; the impeller is composed of longitudinal blades located circumferentially at predetermined interval; and each longitudinal blade has inertly a pocket in its back to receive winds (see 12).

***Allowable Subject Matter***

7. Claims 2,4,5,7 objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

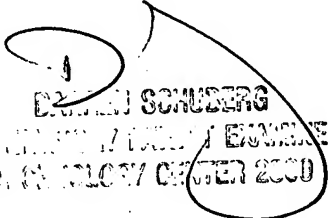
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Iraj A. Mohandesi whose telephone number is 571-272-2028. The examiner can normally be reached on M-Th.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Darren Schuberg can be reached on 571-272-2044. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

I Mohandesi September 14, 2007

  
DARREN SCHUBERG  
SUPERVISOR / EXAMINER  
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